IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Arb. Case No.13 of 2006.

Date of Decision:26.7.2006.

Jasvinder Singh Narula. Petitioner.

Versus

Jai Inder Pal Singh & another. Respondents.

Coram

The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting[1]?

For the petitioner: Mr. Balram Gupta, Senior Advocate, with Mr. Sandeep Kaushik and Ms. Kiran Narula, Advocates, for the petitioner.

For the respondent: Mr. J.S. Bhogal, Senior Advocate, with Mr. Suneet Goel, Mr. Alok Ranjan and Mr. Prakrul Khurana, Advocates, for respondent No.1.

Mr. D.D. Sood, Senior Advocate, with Mr. Paresh Sharma, Advocte, for respondent No.2.

V.K.Gupta, C.J. (Oral)

On 18th August, 2005, a Division Bench of this Court in Arbitration Appeals No. 1 and 2 of 2005 had passed a detailed judgment and had issued various directions qua the parties as well as otherwise and had also appointed Mr.

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

Justice D.P. Sood (Retired), a former Judge of this Court as a Single Member Arbitral Tribunal. The parties today submit before me and agree that this petition having now been filed under Sections 14, 15 and 18 read with Section 9 of the Arbitration and Conciliation Act, 1996, it is required to be heard and disposed of by a Single Judge of this Court because of the nature of the reliefs prayed for in this application.

Mr. Balram Gupta, learned Senior Counsel appearing for the petitioner and Mr. Bhogal, learned Senior Counsel appearing for respondent No.1, both agree that without going into any controversy forming the subject matter of this application and without at all touching upon the merits of any such controversy in any manner and for the sake of maintaining a very conducive atmosphere, it shall be in the interest of justice as well as the parties that the Single Member Arbitral Tribunal is changed but without casting any reflection whatsoever upon respondent No.2. Mr. D.D. Sood, learned Senior Counsel appearing for respondent No.2 submits that respondent No.2 himself is not interested in being a part of any controversy

in any manner, but he feels hurt about some allegations made in the application against him but at the same time would like to be excused from the onerous task of being and continuing as the Single Member Arbitral Tribunal.

Mr. Balram Gupta, learned Senior Counsel appearing for the petitioner submits that the petitioner hereby unequivocally and unconditionally withdraws all the allegations against respondent No.2.

In the aforesaid atmosphere of cordiality and understanding and because of the aforesaid submissions made by the learned counsel for all the parties, and without at all going into any allegation forming the subject matter of this application, I allow the application to the limited extent, the only extent of replacing the Single Member Arbitral Tribunal and hereby appoint, with the consent of the petitioner as well as respondent No.1, Shri Justice Surinder Sarup (Retired), a former Judge of this Court as the Single Member Arbitral Tribunal in place of Shri Justice D.P. Sood (Retired).

The newly appointed sole Arbitrator shall take over and continue the arbitration

proceedings from the stage left over by Shri Justice D.P. Sood. The lump sum fee of the new Arbitrator is fixed at Rs.75,000/-, the same amount which was ordered to be paid to Shri Justice D.P. Sood. This fee is inclusive of all secretarial allowances and every other expenditure to be borne or incurred by the Arbitrator. The parties submit and agree, and I accordingly order that venue of all arbitration proceedings shall be Shimla town. Only on a rare occasion, if both the parties jointly request the learned Arbitrator, can the venue of the arbitration proceedings be either Mandi or any other town. If the arbitration proceedings are held at a place other than Shimla town the Arbitrator shall be entitled to a daily fee of Rs.10,000/- and traveling as well as boarding and lodging expenses. This shall be in addition to the aforesaid lump sum fee of Rs.75,000/- for the entire case.

The aforesaid lump sum fee and any other fee/expenses which the Arbitrator may have to be paid shall be shared equally by both the parties.

This Court has no intention of impinging upon the jurisdiction of the learned

Arbitrator but taking a cue from the observation made in the Division Bench order dated 18th August, 2005, I wish to repeat and reiterate that the learned Arbitrator shall make every earnest endeavour to not only re-start the arbitration proceedings immediately, preferably in the first fortnight of August, 2006 but also to take such possible steps as he deems proper to conclude the arbitration proceedings as early as possible, of course subject to his convenience and if possible by 31st December, 2006.

The application is disposed of.

OMPs No.164 and 165 of 2006.

In view of the disposal of the main case, both the applications shall stand disposed of.

26th July, 2006. (V.K. Gupta), C.J.
(tr)